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Supreme Court, U.S.
FILED

10-751

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No. 10-

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM 2010

OMAR KHADR, ET AL.
(AND CONSOLIDATED CASES),

*Petitioners,*

v.

BARACK OBAMA, ET AL.,

*Respondents.*

# PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA


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## QUESTIONS PRESENTED

1. Whether, in a habeas corpus action brought by an individual held in United States territory, including Guantánamo,

(a) *Munaf v. Geren*, 553 U.S. 674 (2008), requires, and

(b) *Boumediene v. Bush*, 553 U.S. 723 (2008), the Suspension Clause, and the Due Process Clause permit,

the district court to give conclusive effect to the government's assertion that the individual is unlikely to be tortured if transferred to a particular country, disabling the individual from challenging his transfer on the ground that he will likely be tortured there, and the court from fashioning an equitable remedy.[1]

2. Whether, in a habeas corpus action brought by an individual held in Guantánamo:

(a) Section 242(a)(4) of the Immigration and Naturalization Act, 8 U.S.C. § 1252(a)(4), bars "judicial review of any cause or claim under the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman, or Degrading Treatment or Punishment," except in appeals from final orders of deportation.

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[1] This question is also presented in *Mohammed v. Obama*, No. 10- (filed Nov. 5, 2010) (motion for leave to file under seal pending). The Government has made available a public version of the *Mohammed* petition. *See* Lyle Denniston, "*Munaf* test now in open," SCOTUSblog, http://www.scotusblog.Com/2010/11/munaf-test-now-in-open/ (Nov. 23, 2010).

(b) If so construed, Section 242(a)(4) violates the Equal Protection Clause and the Suspension Clause.

## PARTIES TO THE PROCEEDING

The parties to the proceeding are set forth after the signature page.

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*Abdah v. Obama*, D.D.C. No. 04-1254 (HHK) (Mar. 31, 2005) (Docs. 146 & 147) (orders in other habeas cases requiring Government to give counsel 30 days' advance notice of any intended transfer of detainees from Guantánamo) ("2005 notice orders").

*Abdah v. Obama*, D.C. Cir. No. 05-5224 (Government's pending appeal from 2005 notice orders), petition by petitioners for initial en banc hearing pending.

*In Re: Guantánamo Bay Detainee Litigation*, D.D.C. Misc. No. 08-442-TFH (July 11, 2008) (Doc. 52) (order requiring Government to give counsel 30 days' advance notice of any intended transfer of detainees from Guantánamo) ("2008 notice orders"), appearing in *Khadr v. Obama*, D.D.C. No. 04-1136 (July 11, 2008) (Doc. 187).

*Khadr v. Obama*, No. 08-5233 and consolidated cases (Sept. 3, 2010) (vacating 2008 notice orders, based on *Kiyemba II*).

*Mohammed v. Obama*, D.C. Cir. No. 10-5218 (July 8, 2010) (summarily reversing preliminary injunction enjoining Government from repatriating Algerian detainee to Algeria, based on *Kiyemba II*).

*Mohammed v. Obama*, No. 10A52 (July 16, 2010) (denying application to stay mandate for summary reversal order pending filing of petition for certiorari).

*Mohammed v. Obama*, No. 10-__ (filed Nov. 5, 2010) (petition for certiorari to review D.C. Circuit's summary reversal order).

## DECISIONS BELOW

The court of appeals' decision (Pet. 24a), issued on September 3, 2010, is unreported. The district court's order of July 11, 2008 (Pet. 31a) is unreported.

## JURISDICTION

The jurisdiction of this Court rests on 28 U.S.C. § 1254(1). The jurisdiction of the district court rested on 28 U.S.C. § 2241(c)(1), (3), the Suspension Clause, and the Fifth Amendment.

## RELEVANT PROVISIONS OF LAW

*Suspension Clause*, U.S. Const., Art. I, § 9, cl. 2:

The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

*Due Process Clause*, U.S. Const., Amdt. V:

No person shall * * * be deprived of life, liberty, or property, without due process of law * * *.

[No person shall be denied the equal protection of the laws.]

*Immigration and Naturalization Act*, Section 242(a)(4) (8 U.S.C. § 1252(a)(4)):

Claims under the United Nations Convention

Notwithstanding any other provision of law * * * a petition for review filed with an appropriate court of appeals in accordance with this section shall be the sole and exclusive means for judicial review of any cause or claim under the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman, or Degrading Treatment or Punishment * * *.

## STATEMENT OF THE CASE

1. Petitioners are individuals held at the Guantánamo Bay detention facility who have pending petitions for writs of habeas corpus. This case arises out of an order of the United States District Court for the District of Columbia on July 11, 2008 (Pet. 31a) requiring the Government to give counsel for Petitioners 30 days' notice of any intended transfer of a detainee from Guantánamo, to give counsel a chance to object if, for example, counsel fears that the detainee will be tortured in the receiving country ("2008 notice orders"). In a per curiam order dated September 3, 2010, the United States Court of Appeals for the District of Columbia Circuit vacated the 2008 notice orders. (Pet. 24a). In pertinent part, the order reads as follows:

> * * * ORDERED that the district court's order requiring advance notice of transfer, entered in Misc. No. 08-442, *In Re: Guantánamo Bay Detainee Litigation* (D.D.C. July 10), and in the civil actions named therein, be vacated. *See Kiyemba v. Obama*, 561 F.3d 509 (D.C. Cir. 2009).

(Pet. 3a.) The cited decision is *Kiyemba II*.[2] Because the D.C. Circuit relied entirely on *Kiyemba II* in

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[2] "*Kiyemba II*" refers to the second in a trio of appeals taken by the Government in Uighur cases. In *Kiyemba I* and *III*, the D.C. Circuit held that the district court has no power to order the transfer of Guantánamo detainees. *Kiyemba v. Obama*, 555 F.3d 1022 (D.C. Cir. 2009) ("*Kiyemba I*"), and *Kiyemba v. Obama*, 605 F.3d 1046 (D.C. Cir. 2010) ("*Kiyemba III*"). The petitioners in *Kiyemba I* and *III* expect to file a petition for certiorari seeking review of the decisions.

vacating the 2008 notice orders, Petitioners, effectively, present that decision to this Court for review.[3]

2. The first detainees arrived at Guantánamo in January 2002, and the first habeas petitions by detainees were filed soon thereafter. After this Court held in *Rasul v. Bush*, 542 U.S. 466 (2004), that 28 U.S.C. § 2241 confers jurisdiction on the district court to hear the detainees' challenges to the legality of their detention, many other detainees filed habeas petitions. This Court summarized what followed:

> After *Rasul*, petitioners' cases were consolidated and entertained in two separate proceedings. In the first set of cases, Judge Richard J. Leon granted the Government's motion to dismiss, holding that the detainees had no rights that could be vindicated in a habeas corpus action. In the second set of cases Judge Joyce Hens Green reached the opposite conclusion, holding the detainees had rights under the Due Process Clause of the Fifth Amendment.

*Boumediene v. Bush*, 553 U.S. 723, 734-35 (2008). The parties cross-appealed. Judge Green certified

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[3] An appeal by the Government from notice orders issued in 2005 ("2005 notice orders") is pending in the D.C. Circuit. The petitioners in that case have filed a petition for initial hearing en banc to overrule *Kiyemba II*. *Abdah v. Obama*, D.C. Cir. No. 05-5224. Because the D.C. Circuit's disposition of that motion could materially affect this petition, the Court should consider holding this petition pending the D.C. Circuit's disposition of the *Abdah* appeal.

her decision for interlocutory appeal and stayed her cases pending appeal.

3. In March 2005, the various district court judges handling Guantánamo habeas cases began issuing orders requiring the Government to provide counsel with 30 days' notice of any intended transfer of a detainee petitioner from Guantánamo. *See, e.g.*, *Abdah v. Obama*, D.D.C. No. 04-1254 (Mar. 29, 2005). The Government appealed the 2005 notice orders.

On July 11, 2008, after *Boumediene* came down, Judge Thomas F. Hogan, the coordinating judge, issued the 2008 notice orders. (Pet. 31a.) The Government appealed the 2008 notice orders, just as it had appealed the 2005 notice orders. The D.C. Circuit held both sets of appeals in abeyance pending its decision in *Kiyemba II*. That case was to be the first in which the D.C. Circuit would decide the validity of notice orders.

On April 7, 2009, the D.C. Circuit issued its decision in *Kiyemba II*, 561 F.3d 509, a Uighur case. In its decision, the court invalidated 2005 notice orders on the ground that the district court had no power to enjoin transfers – including for fear of torture in the receiving country – and therefore the notice orders were superfluous. Specifically, the court held that, because the Government's *policy* is not to transfer Guantánamo detainees to countries where they are more likely than not to be tortured, a court may not consider evidence that a particular detainee, if transferred to a *particular* country, in fact is likely to be tortured. 561 F.3d at 514-15. The D.C. Circuit rested its holding on *Munaf v. Geren*, 553 U.S. 674 (2008), which the appeals court read to preclude a court "from second-guessing the Executive's assess-

ment of the likelihood a detainee will be tortured by a foreign sovereign." *Id.* at 515. The court stated:

> The Supreme Court's ruling in *Munaf* precludes the district court from barring the transfer of a Guantanamo detainee on the ground that he is likely to be tortured * * * in the recipient country. The Government has declared its policy not to transfer a detainee to a country that likely will torture him, and the district court may not second-guess the Government's assessment of that likelihood.

*Id.* at 516.

The D.C. Circuit rejected the petitioners' effort "to distinguish *Munaf* on the ground that the habeas petitioners in that case did not raise a claim under the Convention Against Torture, as implemented by the Foreign Affairs Reform and Restructuring (FARR) Act, 8 U.S.C. § 1231 note. *See Munaf*, 128 S. Ct. at 2226 n.6." (This Court in *Munaf* declined to reach the § 242(a)(4) issue.) The D.C. Circuit stated:

> That distinction is of no help to them, however, because the Congress limited judicial review under the Convention to claims raised in a challenge to a final order of removal. 8 U.S.C. § 1252(a)(4) ("Notwithstanding any other provision of law * * * including section 2241 of Title 28, or any other habeas corpus provision, * * * a petition for review [of an order of removal] shall be the sole and exclusive means for judicial review of any cause or claim" arising under the Convention). Here the detainees are not challenging a final order of removal. As a consequence, they

> cannot succeed on their claims under the FARR Act, and *Munaf* controls.

561 F.3d at 515.

4. After the D.C. Circuit denied rehearing and rehearing en banc in *Kiyemba II*, the D.C. Circuit vacated the 2005 notice orders in this case. (Pet. 24a.)

## REASONS FOR GRANTING THE WRIT

1. The petition in *Mohammed v. Obama*, No. 10-___ (filed Nov. 5, 2010), addresses the first question presented. Petitioners incorporate and will not repeat the arguments in the *Mohammed* petition.

2. Review is also warranted because, in *Kiyemba II*, the D.C. Circuit decided an important issue of federal law that has not been, but should be, settled by this Court (Rule 10(c)), specifically, whether Section 242(a)(4) of the Immigration and Naturalization Act, 8 U.S.C. § 1252(4)(a), bars Guantánamo detainees from raising claims under the United Nations Convention Against Torture and Other Forms of Cruel, Inhumane, or Degrading Treatment or Punishment ("CAT").

Section 242(a)(4) provides:

> Claims under the United Nations Convention
>
> Notwithstanding any other provision of law (statutory or non-statutory), including section 2241 of Title 28, or any other habeas corpus provision, and sections 1361 and 1651 of such title, a petition for review filed with an appropriate court of appeals in accordance with this section shall be the sole and exclusive

> means for judicial review of any cause or claim under the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman, or Degrading Treatment or Punishment * * *.

In *Kiyemba II*, the D.C. Circuit held that § 242(a) limits judicial consideration of CAT claims. 561 F.3d at 514-15. Under the court's reading of § 242(a), only individuals appealing such orders may raise CAT claims.[4]

The D.C. Circuit was mistaken. As an initial matter, the court simply assumed that § 242(a)(4) applies extraterritorially to Guantánamo. That assumption is at least questionable.[5] Moreover, even assuming that § 242(a)(4) applies, the provision governs judicial review of immigration "removal orders," as the title of § 242, "Judicial Review of Orders of Removal," makes clear. Congress simply sought to channel review of removal orders to the courts of appeals by petition for review, and to eliminate habeas review in those situations where such review is available.

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[4] Claims for CAT violations are asserted under the Foreign Affairs Reform and Restructuring Act of 1998 ("FARR Act"), 8 U.S.C. § 1231 note, which implements CAT. *Munaf* and *Kiyemba II* referred to the petitioners' CAT claims as "FARR Act" claims. For present purposes, we refer to them simply as "CAT claims."

[5] *See Sale v. Haitian Ctrs. Council*, 509 U.S. 155 (1993) (holding that a provision of INA had no extraterritorial application, reaffirming "the presumption that Acts of Congress do not ordinarily apply outside our borders"); *see* also 8 U.S.C. § 101(a)(38) (defining the term "United States" in the INA as limited to certain areas, not including Guantánamo).

Congress added § 242 to the INA in the REAL ID Act of 2005. Pub. L. 109-13, 119 Stat. 302, 310. The legislative history shows that Congress did not intend to eliminate habeas review in cases where petition-for-review jurisdiction is unavailable and habeas review the only review mechanism.[6]

Indeed, the Conference Report states that Congress was concerned, after *INS v. St. Cyr*, 533 U.S. 289 (2001), about creating Suspension Clause problems, and did not intend therefore to eliminate habeas review over challenges that were independent of removal orders and could not be challenged in a petition for review.[7]

Construed to limit judicial review of CAT claims to review of removal orders, § 242(a)(4) violates the Suspension Clause and the Equal Protection Clause. Like the statutes at issue in *Boumediene* (the Detainee Treatment Act of 2005 and Military Commissions Act of 2006), § 242(a)(4), so construed, bars

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[6] As the Conference Report stated, the REAL ID Act "would not preclude habeas review over challenges to detention that are independent of challenges to removal orders." H.R. Rep. No. 109-72, at 175 (2005); *id.* ("the bill would eliminate habeas review only over challenges to removal orders"); *see also Lindaastuty v. Attorney General*, 186 Fed. Appx. 294, 298, 2006 WL 1759556 *3 (3d Cir. 2006) ("The Report specifically states that [the REAL ID Act] would not preclude habeas review over challenges to detention that are independent of challenges to removal orders." (internal quotation marks omitted)).

[7] *See* 151 Cong. Rec. H 2813, H 2873 (2005) (citing *St. Cyr* and emphasizing the "constitutional concerns" with denying review in any forum, including habeas); *id.* (noting *St. Cyr*'s admonition that Congress may only eliminate habeas corpus if it provides an "adequate and effective" alternative).

habeas review, not absolutely, to be sure, but as to particular claims. However, unlike the statutes at issue in *Swain v. Pressley*, 430 U.S. 372 (1977), and *United States v. Hayman*, 342 U.S. 205 (1952), § 242(a)(4) does not provide "habeas-like substitutes" for review of such claims, *see Boumediene*, 128 S. Ct. at 2265, and therefore violates the Suspension Clause. Moreover, as construed, § 242(a)(4) violates equal protection by allowing only individuals petitioning for judicial review of removal orders to assert CAT claims, and precluding other individuals, who may also be facing transfers to likely torture, from asserting such claims.

## CONCLUSION

The Court should grant the petition. Alternatively, the Court should hold the petition pending the D.C. Circuit's disposition of the petition for initial en banc hearing in *Abdah*.

Respectfully submitted,


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## APPENDIX A

## PARTIES TO THE PROCEEDING

Respondents in this Court and the court below[8]:

Barack Obama, President of the United States; Robert M. Gates, Secretary of Defense; Thomas Copeman, Jeffrey Harbeson, Army Brigadier General, Commander, Joint Task Force-GTMO; Ray Mabus, Secretary of the Navy; John D. Altenburg, Jr., Appointing Authority for Military Commissions, Department of Defense; Donnie Thomas, Commander, Joint Detention Operations Group.

Petitioners in this Court and in the court below[9]:

**08-5233**

Omar Khadr

**08-5234**

Falen Gherebi

**08-5235**

Suhail Abdu Anam

Mohamed Abdu Anam, as Next Friend of Suhail Abdu Anam

Fahmi Abdullah Ubad Al-Tawlaqi

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[8] The respondents are successors to the individuals named in prior filings. Each individual is a respondent in one or more of the consolidated cases.

[9] The D.C. Circuit dismissed some cases as moot or as moot with respect to particular petitioners. (*See* Pet. 27a.) Those cases and individuals are set forth at the end of this list.

Abdullah Admed Ubad Al-Tawlaqi, as Next Friend of Fahmi Abdullah Ubad Al-Tawlaqi

Bashir Naser Ali Almarwalh

Huissen Naser Ali Almarwalh, as Next Friend of Bisher Naser Ali Almarwalh

Masaab Omar Al-Madhwani

Ali Omar Madhwani, as Next Friend of Mussab Omar Al-Madhwani

Abdulkhaliq Al-Baidhani

Khalid Al-Baidhani, as Next Friend of Abdulkhaliq Al-Baidhani

Ali Ahmed Mohammed Al Razehi

Abdullah Ahmed Mohammed Al Razehi, as Next Friend of Ali Ahmed Mohammed Al Razehi

Saeed Ahmed Al-Sarim

Samir Ahmed Al-Sarim, as Next Friend of Saeed Ahmed Al-Sarim

Imad Abdullah Hassan

Amro Abdullah Hassan, as Next Friend of Imad Abdullah Hassan

Jalal Salim Bin Amer

Faez Bin Amer, as Next Friend of Jalal Salim Bin Amer

Ali Yahya Mahdi

Mohamed Yahya Mahdi, as Next Friend of Ali Yahya Mahdi

Khalid Ahmed Kassim

Fadhle Ahmed Kassim, as Next Friend of Khalid Ahmed Kassim

Fahmi Abdullah Ahmed

Kmal Abdullah Ahmed, as Next Friend of Fahmi Abdullah Ahmed

Abdualaziz Abdoh Al Swidi, also known as Abdualaziz Abdoh Alsswidi

Adnan Abdoh Alswidi, as Next Friend of Abdualaziz Abdoh Al Swidi

**08-5236**

Mahmoad Abdah

Mahmoad Abdah Ahmed, as next friend of Mahmoad Abdah, also known as Mahmood Abdo Ahmed Bin Ahmed

Majid Mahmoud Ahmed, also known as Majed Mohmood, also known as Majid M. Abdu Ahmed

Mahmoud Ahmed, as next friend of Majid Abdah Ahmed

Abdulmalik Abdulwahhab Al-Rahabi

Ahmed Abdulwahhab, as next friend of Abdulmalik Abdulwahhab Al-Rahabi

Mahktar Yahia Naji Al-Wrafie

Foade Yahia Naji Al-Wrafie, as next friend of Makhtar Yahia Naji Al-Wrafie

Aref Abd Il Rheem

Aref Abd Al Rahim, as next friend of Aref Abd Il Rheem

Yasein Khasem Mohammad Esmail

Jamel Khasem Mohammad, as next friend of Yasein Khasem Mohammad Esmail

Adnan Farhan Abdul Latif

Mohamed Farhan Abdul Latif, as next friend of Adnan Farhan Abdul Latif

Othman Abdulraheem Mohammad

Araf Abdulraheem Mohammad, as next friend Othman Abdulraheem Mohammad

Adil El Haj Obaid

Nazem Saeed El Haj Obaid, as next friend of Adil Saeed El Haj Obaid

Mohamed Mohamed Hassan Odaini

Bashir Mohamed Hassan Odaini, as next friend of Mohamed Mohamed Hassan Odaini

Bashir Mohamed Hassan Odaini, as next friend of Mohamed Mohamed Hassan Odaini

Sadeq Mohammed Said

Abd Alsalam Mohammed Saeed

Sheab Al Mohamedi

Salman Yahaldi Hsan Mohammed Saud

Yahiva Hsane Mohammed Saud Al-Rbuaye

**08-5237**

Ibrahim Ahmed Mahmoud Al Qosi

**08-5238**

Saifullah Paracha

Farhat Paracha, Next Friend

**08-5239**

Jarallah Al-Marri

Ali Salah Kahlah Al-Marri

**08-5240**

Ahcene Zemiri

Karina Dereshteanu, as next friend of Ahcene Zemiri

**08-5241**

Omar Deghayes

Taher Desghayes, Next friend of Omar Deghayes

James Abdullah Kiyemba

Theresa Namuddu, Next friend of Jamel Kiyemba

Shaker Abdurraheem Aamer

Saeed Ahmed Siddique, Next friend of Shaker Abdurraheem Aamer

**08-5242**

Hani Saleh Rashid Abdullah

Yosra Saleh Rashid Abdullah, Next friend of Hani Saleh Rashid Abdullah

Rami Bin Saad Al-Oteibi

**08-5243**

Mahmood Salim Al Mohammed

Abdulla Salim Al-Mohammed, Brother and Next Friend of Mahmood Salim Mohammed

**08-5244**

Omar Deghayes, as next friend of Alladeen

**08-5245**

Muhammad Al-Adahi

Miriam Ali Abdullah Al-Haj, as next friend of Muhammad Al-Adahi

Muhammad Ali Abdullah Bawazir

Salih Ali Abdullah Bawazir, as next friend of Muhammad Ali Abdullah Bawazir

Fahmi Salem Al-Assani

Salem Said Al-Assani, as next friend of Fahmi Salem Al-Assani

Suleiman Awadh Bin Aqil Al-Nahdi

Ghazi Awadh Bin Aqil Al-Nahdi, as next friend of Suleiman Awadh bin Aqil Al-Nahdi

Zahir Omar Khamis B Hamdoon

Muhammad Omar Khamis B Hamdoon, as next friend of Zahir Omar Khamis Bin Hamdoon

**08-5246**

Ahmed Abdullah Al-Wazan

**08-5247**

Mohammed Abdul Rahman

**08-5248**

Djamel Ameziane

**08-5249**

Ahamed Abdul Aziz

Sabiha Awad Hadrami, As next friend of Ahamed Abdul Aziz

**08-5250**

Saleh Abdulla Al-Oshan

Mohammed Saad Mohammed Al-Oshan, as next friend of Saleh Abdulla Al-Oshan

Zaben Dhaher Al Shammari

Nasser Daher Al Shammari, as next friend of Zaben Dhaher Al Shammari

Abdul Rahman Shalby

Shaker Aamer, As next friend of Abdul Rahman Shalby, Abdullah Aali Al Otiabi, Muhammed Fahad Al Qahtany and Musa Al Madany

Adbullah Aali Al Otiabi

Muhammed Fahad Al Qahtany

Musa Al Madany

**08-5251**

Muhammed Khan Tumani

Abd Al Nisr Khan Tumani

**08-5252**

Mohammedou Ould Salahi

Yahdih Ould Salahi, as next friend of Mohammedou Ould Salahi

**08-5253**

Omer Saeed Salem Al Daini, also known as Amer Said Salim Al Daini

Mohammed Saeed Salem Al Daini, as next friend of Omer Saeed Salem Al Daini,

**08-5254**

Mohsen Abdrub Aboassy

Mohammed Saeed Bin Salman

Sameer Najy Hasan Mukbel

Abdulla Ahdrub Aboassy, as Next Friend of Mohsen Abdrub Aboassy

Saeed Salim Bisalman, as Next Friend of Mohammed Saeed Bin Salman

Najy Hasan Mukbel, as Next Friend of Sameer Najy Hasan Mukbel

**08-5255**

Adel Ben Hamlily

**08-5256**

Ahmed Abu Imran

Najeeb Al Husseini

Mohammed Al Nadour

Mohammed Fahreo

Lahcen Ikasrien

Mohammed Mazoz

Moussa

Abdul Latif Mohammed Nasser

Said

Younis Shakur

Ridouane Shakur

Tareq

Omar Deghayes, as next friend of the above 12 persons

**08-5257**

Alladeen

Ismail Al-Mashad

**08-5258**

Khiali-Gul

**08-5259**

Mohamedou Ould Slahi

**08-5260**

Karin Bostan

**08-5261**

Yasin Muhammed Basardh

**08-5262**

Ali Hussian Mohammad Muety Shaaban

**08-5264**

Kasimbekov Komoliddin Tohirjanovich

**08-5265**

Mohamedou Ould Slahi

**08-5266**

Arkan Mohammad Ghafil Al Karim

**08-5267**

Asim Ben Thabit Al-Khalaqi

**08-5268**

Abdulsalam Ali Abdulrahman Al-Hela, also known as Abd Al-Salam Ali Al-Hila

Abdulwahab Ali Abdulrahman Al-Hela, As Next Friend of Abdulsalam Ali Abdulrahman Al-Hela

**08-5269**

Mohammad Sayyed Shah, as next friend of Ali Shah Mousovi

Izaatullah Nusrat

Abdul Wahid, as next friend of Izaatullah Nusrat and Haji Nusrat

Haji Rohullah Wakil

Mohammad Wakil, as next friend of Haji Rohullah Wakil

Sabar Lal

Mohammed Hassan, as next friend of Sabar Lal

Wali Mohammed Morafa

Hadaya Morafa, as next friend of Wali Mohammed Morafa

Abdul Razak Iktiar Mohammed

Chaman Gul Khialigol

Honorgol Khialigol, as Next Friend of Chaman Gul Khialigol

**08-5270**

Omar Mohammed Khalifh

Omar Deghayes, as next friend of Omar Mohammed Khalifh

**08-5272**

Abdulzaher

**08-5273**

Tariq Mahmoud Alsawam

**08-5274**

Farhi Saeed Bin Mohammed

Moazzam Begg, as next friend of Farhi Saeed bin Mohammed

**08-5275**

Motai Saib

Bisher Al-Rawi, As Next Friend of Motai Saib

**08-5276**

Saeed Mohammed Saleh Hatim

Ali Mohammed Saleh Al-Salahi, as next friend of Saeed Mohammed Saleh Hatim

Mohammed Nasser Yahia Abdullah Khussrof

Fatima Nasser Yahia Abdullah Khussrof, as next friend of Mohammed Nassert Yahia Abdullah Khussrof

**08-5277**

Jihad Dhiab

Shaker Aamer, as Next Friend of Jihad Dhaib

**08-5278**

Ahmed Doe, Last Name Being Unknown

Omar Deghayes, As Next Friend of Ahmed "Doe"

**08-5280**

Abdl Hadi Omar Mahmoud Faraj

**08-5281**

Adil Bin Muhammad Al Wirghi

Tawiss Bint Hasan Al Wirghi, as next friend of Adil bin Muhammad al Wirghi

**08-5282**

Nabil, (Last Name Unknown)

Jamaal Kiyemba, As next friend of Nabil (Last Name Unknown)

**08-5283**

Abbar Sufian Al Hawary

**08-5284**

Sufyian Barhoumi

Jamaal Kiyemba, As next friend of Shafiiq (Last Name Unknown)

**08-5285**

Jamal Kiyemba, Next Friend

Abdusabur Doe

Hammad Doe

Khalid Doe

Saabir Doe

**08-5286**

Ibrahim Osman Ibrahim Idris, also known as Abraham Othman Abrahim Edries

**08-5288**

Hassan Bin Attash

Benyamin Mohammed Al Habashi, as Next Friend of Hassan Bin Attash

A'Amer Shaker, As Next Friend of Hassan Bin Attash

**08-5289**

Hamid Al Razak

Bisher Al-Rawi, As next friend of Hamid Al Razak

**08-5291**

Abdul Raheem Ghulam Rabbani

Malika, as Next Friend of Abdul Raheem Ghulam Rabbani

Ahmmed Ghulam Rabbani

Fouzia Ahmmed, as Next Friend of Ahmmed Ghulam Rabbani

**08-5292**

Abdul Zahir

**08-5293**

Mohammed Rajeb Abu Ghanem

Himiger Sader Abu Ghanem, Next Friend of Mohammed Rajeb Abu Ghanem

**08-5294**

Ameen Mohammad Albkri

Ali Saleh Albkri, Next Friend of Ameen Mohammad Albkri

**08-5295**

Hussain Salem Mohammed Almerfedi

Salem Mohammed Salem Abdulla Almerfedi, as next friend of Hussain Salem Mohammed Almerfedi

**08-5296**

Waleed Saeed BN Saeed Zaid

Mohammed Saeed Bn Saeed Zaid, as next friend of Waleed Saeed Bn Saeed Zaid

**08-5297**

Hussein Salem Mohammad A. El-Marqodi

**08-5299**

Usama Hasan Abu Kabir, as Next Friend of Sadar Doe and Arkeen Doe

Sadar Doe, also known as Saddiq Doe

Arkeen Doe

**08-5300**

Abraham Othman Abrahim Edries

Bisher Al-Rawi, As Next Friend of Abrahim Othman Abrahim Edries

**08-5301**

Mohammed Al Qahtani

Manea Ahmed Al Qahtani, as next friend of Mohammed Al-Qahtani

**08-5302**

Ismail Alkhemisi

Hasan Balgaid

Omar Deghayes, As next freind of Ismail Alkhemisi and Hasan Balgaid

**08-5303**

Ravil Mingaza Gamil

Diliara Mingazova, as wife of Ravil Mingaza Gamil

**08-5304**

Abdulkadr Abdulkhalik Dad

**08-5305**

Khaled Abd Elgabar Mohamme Othman

Abd Al Malik Abd Al Wahab, As next friend of Khaled Abd Elgabar Mohammed Othman

**08-5306**

Issam Hamid Ali Bin Ali Al Jayfi

Hamid Ali Al Jayfi, as next friend of Issam Hamid Ali Bin Ali Al Jayfi

Othman Ali Mohammed Al Shamrany

Ali Mohamed Omar Al Shomrany, as next friend of Othman Ali Mohammed Al Shamrany

Khalid Mohammed Al Thabbi

Muhammed Ahmed Muhammed Alghurbany, as next friend of Khalid Mohammed Al Thabbi

Ali Hamza Ahmed Suliman Bahlool

Abdoul Mohammed Ahmed Bahlool, as next friend of Ali Hamaza Ahmed Suliman Bahlool

Saleh Mohammed Seleh Al Thabbii, also known as Saleh Mohammed Al Dhabi

Fatmah Qhasim Al Ahmadi, as next friend of Saleh Mohammed Seleh Al Thabbii

Adbul Al Qader Ahmed Hussain

Abdulgader Ahmed Hasin Abobaker, as next friend of Abdul Al Qader Ahmed Hussain

**08-5308**

Abdu Al Qader Hussain Al-Mudafari

Salieh Hussain Ali Al-Mudafari, as Next Friend of Abdu al-Qader Hussain Al-Mudafari

**08-5309**

Hayal Aziz Ahmed Al-Mithali

Ali Aziz Ahmed Al-Mithali, as next friend of Hayal Aziz Ahmed Al-Mithali

**08-5310**

Abd Al Hakim Ghalib Ahmad Alhag

Saeed Ghalib Ahmad Alhag, as Next Friend of Abd Al Hakim Ghalid Ahmad Alhag

**08-5311**

Abdualqader Hossin Ali Al-Mothafri

Saleh Hossin Ali Al-Mothafri, as Next Friend of Abdualqader Hossin Ali Al-Mothafri

**08-5312**

Mohammed Abdul Rahman Al-Shimrani

Ali Abdul Rahman Al-Shimrani, As Next Friend of Mr. Mohammed aBdul Rahman Al-Shimrani

**08-5313**

Ahmed Ben Bacha

Salah Belbacha, as next friend of Ahmed Ben Bacha

**08-5314**

Abdullah Wazir Zadran

Zahir Shah, as Next Friend of Abdullah Wazir Zadran

Abdul Haq

Abdul Barri, as Next Friend of Abdul Haq

Mirra Jaan, as Next Friend of Tooran Mohammad Amannullah

Mohammad Wabi Umari

Gul Hyat Khan, as Next Friend of Mohammad Wabi Umari

Abdullah Mujahid Haq

Farid Ahmed, as Next Friend of Abdullah Mujahid Haq

Mohammad Zahir

Abdul Wahab, as Next Friend of Mohammad Zahir

Ghulam Roohani

Ghulam Jeelani, as Next Friend of Ghulam Roohani

Dr. Hiyatullah

Abdul Zahir, DR., as Next Friend of Dr. Hiyatulla

Honorgol Khialigol, as Next Friend of Chaman Gul Khialigol

Chaman Gul Khialigol

**08-5315**

Ahmad Mohammad Al Darbi

Ali Mohammad Al Darbi

**08-5317**

Adham Mohammed Ali Awad

**08-5318**

Zakaria Al-Baidany

Ahmed Mohammed Hassi Al Rammah, as Next Friend of Zakaria Al-Baidan

**08-5319**

Ismail Ali Al Rammi

Soaid Salh Ahmad Al Rammi, as Wife and Next Friend of Ismail Ali Al Rammi

Adel Ali Ahmad Al Rammi, as Wife and Next Friend of Ismail Ali Al Rammi

**08-5320**

Salim Said

Anwar Handan Al Shimmiri

Suliman Honaheem Alowaidah, As the next friend of Anwar Handan Al Shimmiri

Saad Al Qahtaani

Sami Muhyideen, As the next friend of Saad Al Qahtaani

Bandar Al Jaabir

Jamal Kiyemba, As the next friend of Bandar Al Jaabir

Mohammed Zahrani

Omar Deghayes, As the next friend of Mohammed Zahrani

**08-5321**

Mohammed Kameen

Saki Bacha

Muhammed Saad Iqbal Madni

Houmad Warzly

Sabry Mohammed

Saleh

**08-5322**

Sharaf Al Sanani

Mohammed Abdullah Taha Mattan

Abdul Aziz Naji

Abdul Razak Ali

Shargowi Lnu

Sanad Ali Alkaliemi

Abdullah Bo Omer Hamza Yoyej

Abdulaziz Lnu

Jamil Ahmad Saeed

Alkhadr Abdullah Al Yafie

Tofiq Nasser Awad Al Bihani

Mohammed Ahmed Slam Al-Khateeb

Bilal Lnu

Abdul-Rahman Abdo Abulghaith Sulaiman

Abu Rawda

Abdurahman Lnu

Ahmed S. Omar

Edress Lnu

Mohammed Ahmed Saeed Hidar

Samir Lnu

**08-5323**

Jobran Saad Al-Quhtani

Nawal Maday Al-Quhtani, as Next Friend of Jobran Saad Al-Quhtani

**08-5325**

Talah Ahmed Mohammed Ali Almjrd

Ahmed Mohammed Ali Almjrd, as Next Friend of Talah Ahmed Mohammed Ali Almjrd

**08-5326**

Ahmed Al-delebany

**08-5327**

Ghanim Abdulrahman Al-Harbi

Ravil Mingazov

Zainulabidin Merozhev

Elham Battayav, as Next Friend of the above-named Petitioners

**08-5328**

Abdulli Feghoul

08-5329

Mohammed Abdullah Mohammed Ba Odah

Tariq Ali Abdullah Mohammed Ba Odah

Nasser Ali Abdullah Ba Odah, Next friend of Mohammaed Abdullah Mohammed Ba Odah and Tariq Ali Abdullah Ba Odah

**08-5330; 08-5332**

Qari Saad Iqbal

Mohammad Sharief, as Next Friend of Qari Saad Iqbal

**08-5333**

Majid Khan

Rabia Khan, As next Friend of Majid Khan

**08-5334**

Qari Hamdullah, also known as Maulavi Tarakheil Hamidullah

Mohammad Nasir, as Next Friend of Qari Hamdullah

**08-5335**

Faiz Ahmed Yahia Suliman

Haddad Ahmed Yahia Suliman, as the next friend of Faiz Ahmed Yahia Suliman

**08-5336**

Elisher

Sabir, As next friend of Elisher

**08-5338**

Iyob Murshad Ali Saleh, also known as Ayoub Murshid Ali Saleh

Murshad Ali Saleh

**08-5339**

Fadhel Hussein Saleh Hentif

Haykal Mohammed Saleh Hentif, As next friend of Fadhel Hussein Saleh Hentif

**08-5340**

Mohamed Al-Zarnouqi

Mashour Abdullah Muqbel Alsabri

Mohamed Muqbel Ahmed Alsabri, as next friend of Mashour Abdullah Muqbel Alsabri

**08-5341**

Abdulrahman Muhammad Saleh Nasser

Muhammad Muhammad Saleh Nasser, as next friend af Abdulrahman Muhammad Saleh Nasser

**08-5342**

Ridah Bin Saleh Al Yazidi

Sami Al Hajj, as Next Friend of Ridah Bin Saleh al Yazidi

**08-5343**

Abdurrahman Abdallah Ali Ma Al Shubati, also known as Abd Al Rahman Abdul Al Muhammad

Abdullah Ali Mahmoud Al Shubati, as Next Friend of Abdurrahman Abdallah Ali Mahmoud al Shubati

**08-5345**

Abdul Rahim Hussein M Ali Nasher

Scott Lloyd Fenstermaker, As Next Friend of Abdul Rahim Hussein Muhammed Ali Nashir

**08-5346**

Shaw Ali Khan

**08-5347**

Bashir Ghalaab

## DISMISSED AS MOOT

**08-5271**

Abu Abdul Rauf Zalita

**08-5331**

Mohammed Ahmed Taher

**08-5348**

Mohammed Sulaymon Barre

**08-5235**

Dismissed with respect to appellee Atag Ali Abdul

**08-5236**

Dismissed with respect to appellees Jamal Mar'i and his next friend and Farouk Ali Ahmed Saif

**08-5244**

Dismissed with respect to Sherif El-Mashad and next friend

**08-5314**

Dismissed with respect to appellees Mohammad Rahim and next friend

**08-5321**

Dismissed with repect to appellee Riyad Nargeri

**08-5322**

Dismissed with respect to appellees Saif Ullah and Adel LNU

APPENDIX B

UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

---

Omar Khadr, Detainee, Camp Delta,
Appellee

v.

Barack Obama, President of the United States, et al.,
Appellants

---

No. 08-5233
September Term 2010

Consolidated with 08-5234, 08-5235, 08-5236, 08-5237, 08-5238, 08-5239, 08-5240, 08-5241, 08-5242, 08-5243, 08-5244, 08-5245, 08-5246, 08-5247, 08-5248, 08-5249, 08-5250, 08-5251, 08-5252, 08-5253, 08-5254, 08-5255, 08-5256, 08-5257, 08-5258, 08-5259, 08-5260, 08-5261, 08-5262, 08-5264, 08-5265, 08-5266, 08-5267, 08-5268, 08-5269, 08-5270, 08-5272, 08-5273, 08-5274, 08-5275, 08-5276, 08-5277, 08-5278, 08-5280, 08-5281, 08-5282, 08-5283, 08-5284, 08-5285, 08-5286, 08-5288, 08-5289, 08-5291, 08-5292,

08-5293, 08-5294, 08-5295, 08-5296,
08-5297, 08-5299, 08-5300, 08-5301,
08-5302, 08-5303, 08-5304, 08-5305,
08-5306, 08-5308, 08-5309, 08-5310,
08-5311, 08-5312, 08-5313, 08-5314,
08-5315, 08-5317, 08-5318, 08-5319,
08-5320, 08-5321, 08-5322, 08-5323,
08-5325, 08-5326, 08-5327, 08-5328,
08-5329, 08-5330, 08-5332, 08-5333,
08-5334, 08-5335, 08-5336, 08-5338,
08-5339, 08-5340, 08-5341, 08-5342,
08-5343, 08-5345, 08-5346, 08-5347

Filed On: September 3, 2010

BEFORE: Ginsburg, Brown, and Griffith, Circuit Judges

O R D E R

Upon consideration of the government's motion to vacate and remand; the court's order to show cause filed April 29, 2010, the lodged joint response thereto, and the consolidated reply; the motion to exceed the page limit for the joint response; and the response in No. 08-5327, respondents' reply, and petitioner's reply thereto, it is

ORDERED that the order to show cause be discharged. It is

FURTHER ORDERED that the motion to exceed the page limit be granted. The Clerk is directed to file the lodged joint response. It is

FURTHER ORDERED that the district court's order requiring advance notice of transfer, entered in Misc. No. 08-442, *In Re: Guantanamo Bay Detainee Litigation* (D.D.C. July 10, 2008), and in civil actions named therein, be vacated. *See Kiyemba v. Obama*, 561 F.3d 509 (D.C. Cir. 2009).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. *See* Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Scott H. Atchue
Deputy Clerk

UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

---

Omar Khadr, Detainee, Camp Delta,
Appellee

v.

Barack Obama, President of the United States, et al.,
Appellants

---

No. 08-5233
September Term 2010

Consolidated with 08-5234, 08-5235, 08-5236, 08-5237, 08-5238, 08-5239, 08-5240, 08-5241, 08-5242, 08-5243, 08-5244, 08-5245, 08-5246, 08-5247, 08-5248, 08-5249, 08-5250, 08-5251, 08-5252, 08-5253, 08-5254, 08-5255, 08-5256, 08-5257, 08-5258, 08-5259, 08-5260, 08-5261, 08-5262, 08-5263, 08-5264, 08-5265, 08-5266, 08-5267, 08-5268, 08-5269, 08-5270, 08-5271, 08-5272, 08-5273, 08-5274, 08-5275, 08-5276, 08-5277, 08-5278, 08-5280, 08-5281, 08-5282, 08-5283, 08-5284, 08-5285, 08-5286, 08-5288, 08-5289, 08-5291, 08-5292, 08-5293, 08-5294, 08-5295, 08-5296, 08-5297, 08-5299,

08-5300, 08-5301, 08-5302, 08-5303,
08-5304, 08-5305, 08-5306, 08-5308,
08-5309, 08-5310, 08-5311, 08-5312,
08-5313, 08-5314, 08-5315, 08-5316,
08-5317, 08-5318, 08-5319, 08-5320,
08-5321, 08-5322, 08-5323, 08-5325,
08-5326, 08-5327, 08-5328, 08-5329,
08-5330, 08-5331, 08-5332, 08-5333,
08-5334, 08-5335, 08-5336, 08-5337,
08-5338, 08-5339, 08-5340, 08-5341,
08-5342, 08-5343, 08-5345, 08-5346,
08-5347, 08-5348

Filed On: April 29, 2010

BEFORE: Henderson, Rogers, and Brown, Circuit Judges

ORDER

Upon consideration of the responses to the court's January 21, 2010 order; appellants' motion to vacate and remand; and appellees' motions to hold in abeyance, the notices of joinder thereto, the oppositions to the abeyance motions, and the replies, it is

ORDERED that Nos. 08-5271, 08-5331, and 08-5348 be dismissed as moot based on the government's representation that appellees Abu Abdul Rauf Zalita, Mohammed Ahmed Taher, and Mohammed Sulaymon Barre have been transferred from Guantanamo Bay and are no longer in the custody and control of the United States government. It is

FURTHER ORDERED that the consolidation of Nos. 08-5271, 08-5331, and 08- 5348 with Nos. 08-5233, et al., be terminated. It is

FURTHER ORDERED that No. 08-5235 be dismissed as moot with respect to appellee Atag Ali Abdoh. It is

FURTHER ORDERED that No. 08-5236 be dismissed as moot with respect to appellee Jamal Mar'i and his next friend, and appellee Farouk Ali Ahmed Saif. It is

FURTHER ORDERED that No. 08-5244 be dismissed as moot with respect to appellee Sherif El-Mashad and his next friend. It is

FURTHER ORDERED that No. 08-5314 be dismissed as moot with respect to appellee Mohammad Rahim and his next friend. It is

FURTHER ORDERED that No. 08-5321 be dismissed as moot with respect to appellee Riad Nargeri. It is

FURTHER ORDERED that No. 08-5322 be dismissed as moot with respect to appellees Saif Ullah and Adel Lnu. It is

FURTHER ORDERED that the motions to hold in abeyance be dismissed as moot in light of the Supreme Court's order denying the petition for writ of certiorari in *Kiyemba v. Obama*, No. 09-581 (U.S. Mar. 22, 2010). It is

FURTHER ORDERED, on the court's own motion, that the remaining appellees in these consolidated cases show cause, within 30 days of the date of this order, why the district court's orders requiring advance notice of transfer should not be vacated and the cases remanded. See Kiyemba v. Obama, 561 F.3d 509 (D.C. Cir. 2009). Each appellee's response to the order to show cause may not exceed 10 pages, but appellees are strongly encouraged to file a joint response, not to exceed 10 pages. Appellants may file a reply, not to exceed 5 pages, within 14 days of service of each appellee's response. Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to issue forthwith to the district court a certified copy of this order in lieu of formal mandate in Nos. 08-5271, 08-5331, and 08-5348. The Clerk is further directed to withhold issuance of the mandate in Nos. 08-5235, 08-5236, 08-5244, 08-5314, 08-5321, and 08-5322 until resolution of the remainder of those appeals.

Per Curiam

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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IN RE:
GUANTANAMO BAY
DETAINEE LITIGATION

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Misc. No. 08-442 (TFH)

Civil Action Nos.
02-CV-0828, 04-CV-1136, 04-CV-1164, 04-CV-1194, 04-CV-1254, 04-CV-1937, 04-CV-2022, 04-CV-2035, 04-CV-2046, 04-CV-2215, 05-CV-0023, 05-CV-0247, 05-CV-0270, 05-CV-0280, 05-CV-0329, 05-CV-0359, 05-CV-0392, 05-CV-0492, 05-CV-0520, 05-CV-0526, 05-CV-0569, 05-CV-0634, 05-CV-0748, 05-CV-0763, 05-CV-0764, 05-CV-0833, 05-CV-0877, 05-CV-0881, 05-CV-0883, 05-CV-0889, 05-CV-0892, 05-CV-0993, 05-CV-0994, 05-CV-0995, 05-CV-0998, 05-CV-0999, 05-CV-1048, 05-CV-1124, 05-CV-1189, 05-CV-1220, 05-CV-1136, 05-CV-1244, 05-CV-1347, 05-CV-1353, 05-CV-1429, 05-CV-1457, 05-CV-1458, 05-CV-1487, 05-CV-1490, 05-CV-1497, 05-CV-1504, 05-CV-1505, 05-CV-1506, 05-CV-1509, 05-CV-1555, 05-CV-1590, 05-CV-1592, 05-CV-1601, 05-CV-1602, 05-CV-1607, 05-CV-1623, 05-CV-1638, 05-CV-1639, 05-CV-1645, 05-CV-1646, 05-CV-1649, 05-CV-1678, 05-CV-1704, 05-CV-1725, 05-CV-1971, 05-CV-1983, 05-CV-2010, 05-CV-2083, 05-CV-2088, 05-CV-2104, 05-CV-2112, 05-CV-2185, 05-CV-2186, 05-CV-2199, 05-CV-2200, 05-CV-2249, 05-CV-2349, 05-CV-2367, 05-CV-2371,

05-CV-2378, 05-CV-2379, 05-CV-2380, 05-CV-2381, 05-CV-2384, 05-CV-2385, 05-CV-2386, 05-CV-2387, 05-CV-2398, 05-CV-2444, 05-CV-2477, 05-CV-2479, 06-CV-0618, 06-CV-1668, 06-CV-1674, 06-CV-1684, 06-CV-1688, 06-CV-1690, 06-CV-1691, 06-CV-1758, 06-CV-1759, 06-CV-1761, 06-CV-1765, 06-CV-1766, 06-CV-1767, 07-CV-1710, 07-CV-2337, 07-CV-2338, 08-CV-987, 08-[sic-]1085, 08-CV-1101, 08-CV-1104, 08-CV-1153

ORDER

During the hearing held on July 8, 2008, petitioners' representative counsel requested that this Court order the government to provide petitioners' and the Court with 30 days' advance notice of any intended removal of a petitioner from detention at Guantanamo Bay, Cuba.

Recognizing that issues pertaining to notice of removal and a court's power to enjoin the government from removing a detainee are currently pending before the United States Court of Appeals for the District of Columbia Circuit, see Kiyemba, et at. v. Bush, et al., No. 05-5487 (consolidated), and Abdah, et al. v. Bush et al., No. 05-5224 (consolidated), and that some Judges of this Court have entered such orders and others have not, the Court adopts the reasoning of those Judges who entered orders requiring notice and, therefore,

ORDERS that, in cases in which the petitioner requests such notice, the government shall file notice

with the Court 30 days prior to any transfer of a petitioner from Guantanamo Bay, Cuba.[1]

July 10, 2008

[signed]
Thomas F. Hogan
United States District Judge

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[1] Nothing in this order should be construed as a determination that this Court has the power to enjoin the government from transferring petitioners from detention at Guantanamo Bay, Cuba.